

United States District Court  
Northern District of California

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

JUVENTINA MATA, et al.,  
Plaintiffs,  
v.  
MANPOWER INC. / CALIFORNIA  
PENINSULA, et al.,  
Defendants.

Case No. 14-CV-03787-LHK

**ORDER GRANTING PRELIMINARY  
APPROVAL OF CLASS ACTION  
SETTLEMENT**

Re: Dkt. No. 188

Before the Court is Plaintiffs Claudia Padilla and Lesli Guido's Renewed Supplemental Motion for Preliminary Approval of the Class Action Settlement. ECF No. 188. The Court finds that the instant motion is appropriate for resolution without oral argument and therefore VACATES the hearing scheduled for January 26, 2017. Having reviewed Plaintiffs' renewed supplemental motion, ECF No. 188, the parties' two previous motions for preliminary approval, ECF Nos. 184, 176, 175, and the parties' Joint Stipulation of Class Action Settlement ("Settlement"), ECF No. 188-1, along with the files and records of this case, the Court hereby GRANTS Plaintiff's Renewed Supplemental Motion for Preliminary Approval of the Class Action Settlement. Accordingly, the Court VACATES the February 16, 2017 pre-trial conference and the March 20, 2017 jury trial.

**I. CONDITIONAL CERTIFICATION OF SETTLEMENT CLASS****A. Settlement Class**

For settlement purposes, the parties have proposed conditional certification of the following settlement class (the “Class”):

All current and former non-exempt, hourly associates who worked for Defendant Manpower, Inc./California Peninsula from April 12, 2009 through September 8, 2016 and all current and former non-exempt, hourly associates who worked for Defendants Manpower Inc., ManpowerGroup Inc., and ManpowerGroup US Inc. from February 13, 2009 through September 8, 2016. Notwithstanding the foregoing, any person who performed work and/or suffered violations of any law occurring while such person was in the employ of either Manpower US Inc. and/or CPM LTD d/b/a Manpower of San Diego and Manpower Temporary Services shall not be considered a Class Member with respect to such employment.

**B. Conditional Certification**

Pursuant to Federal Rule of Civil Procedure (“Rule”) 23, the Court hereby certifies the Class for the sole and limited purpose of implementing the terms of the Settlement. Entry of this Order is without prejudice to the rights of Defendants to oppose certification of a class in this action should the proposed Settlement not be granted final approval.

**II. APPOINTMENT OF CLASS REPRESENTATIVES AND CLASS COUNSEL****A. Class Representatives**

The Court finds and concludes that Plaintiffs Claudia Padilla and Lesli Guido have claims typical of the Class Members and are adequately representative of Class Members. The Court hereby appoints Plaintiffs Claudia Padilla and Lesli Guido to serve as Class Representatives.

**B. Class Counsel**

The Court appoints Plaintiffs’ counsel, Fitzpatrick, Spini & Swanston and Wanger Jones Helsley PC as Class Counsel.

**III. PRELIMINARY APPROVAL OF SETTLEMENT**

The Court has reviewed the terms of the Settlement, including the plan of allocation and the release of claims. ECF No. 188-1. The Court has read and considered Plaintiffs’ two previous motions for preliminary approval, as well as the declarations in support of each motion. ECF No.

184; ECF No. 176; ECF No. 175. Based on review of those papers and the record in this case, the Court finds that the Settlement is the result of arms-length negotiations between the parties conducted after Class Counsel had adequately investigated Plaintiffs' claims and become familiar with their strengths and weaknesses. The assistance of an experienced mediator in the settlement process confirms that the Settlement is non-collusive. Based on all of these factors, the Court finds that the proposed Settlement meets the criteria for preliminary settlement approval. The Settlement has no obvious defects and falls within the range of possible approval as fair, adequate, and reasonable, such that notice to the Class is appropriate.

#### 9 **IV. APPROVAL OF THE CLASS NOTICE, EXCLUSION FORM AND MANNER OF DISTRIBUTION**

10 The parties have also submitted for this Court's approval a proposed Notice of Settlement  
 11 (attached as Exhibit B to the Renewed Motion, ECF No. 188-1), and proposed Opt-Out Form  
 12 (attached as Exhibit 2 to Joint Stipulation of Class Action Settlement, ECF No. 176) (collectively,  
 13 "Class Notice"). The parties have also proposed a plan for distributing these documents in English  
 14 and Spanish to Class Members after the Court grants preliminary approval of the Settlement. ECF  
 15 No. 188-1, at 14–17. After carefully reviewing these documents and plan of distribution, the Court  
 16 finds as follows:

##### 17 **A. Best Notice Practicable**

18 The proposed Class Notice is the best notice practicable under the circumstances and  
 19 allows the Class Members a full and fair opportunity to consider the Settlement.

20 The Class Notice fairly, plainly, accurately, and reasonably informs Class Members of: (1)  
 21 appropriate information about the nature of this action, the definition of the Class, the identity of  
 22 Class Counsel, and the essential terms of the Settlement, including the plan of allocation; (2)  
 23 appropriate information about related class action lawsuits and how those lawsuits would be  
 24 affected by settlement in the instant case; (3) appropriate information about Plaintiffs' and Class  
 25 Counsels' forthcoming applications for the Class Representatives' Service Payment and Class  
 26 Counsels attorneys' fees and costs; (4) appropriate information about how settlement payments  
 27

will be calculated, how to receive a settlement payment, the Class Member's estimated gross individual settlement payment under the Settlement, and the procedures by which Class Members may contest Defendants' records of their employment history, which may affect their monetary recovery under the Settlement; (5) appropriate information about this Court's procedures for final approval of the Settlement and about Class Members' right to appear if they desire; (6) appropriate information about how to object to or opt out of the Settlement; and (7) appropriate instructions to obtain additional information regarding this action and the Settlement.

**B. Opt-Out Form**

The proposed Opt-Out Form fairly, accurately, and reasonably informs Class Members of the process to follow if they want to exclude themselves from the Settlement, thereby foregoing any right to collect a payment under the Settlement, but preserving their ability to pursue an individual claim against Defendants.

**C. Plan of Distribution**

The proposed plan for distributing the Class Notice is likewise is a reasonable method calculated to reach all individuals who would be bound by the Settlement. Under this plan, within fifteen (15) calendar days after the date of the instant Order, Defendants will provide the Settlement Administrator with the last known address and telephone number, social security number, dates of employment of all Class Members and their total wage statements received during the class periods.

Within twenty-one (21) calendar days after Defendants provide the database to the Settlement Administrator, the Settlement Administrator will mail, by first-class mail, the Class Notice in both English and Spanish to all Class Members at their last known address, unless modified by any updated address information that the Settlement Administrator obtains in the course of administration of the Settlement. Prior to the mailing of the Class Notice, the Settlement Administrator will update any new address information for Class Members as may be available through the National Change of Address database or equivalent system.

The Settlement Administrator will trace all returned undeliverable Class Notice and re-

mail them to the most recent address available within seven (7) days following receipt of the returned mail. For any Class Notices returned to the Settlement Administrator without a forwarding address, the Settlement Administrator shall conduct one computer “skiptrace” search to obtain an updated address, and shall promptly re-mail the Class Notice to any newly-found address or addresses. The re-mailed Class Notice shall be identical to the original Class Notice.

The Settlement Administrator will take all other necessary action in furtherance of the administration of the Settlement as are specified in the Settlement Agreement.

#### **D. Approval**

The Court finds and concludes that the proposed plan for distributing the Class Notice will provide the best notice practicable, satisfies all legal and due process requirements. Accordingly, the Court hereby orders as follows:

1. The Class Notice is approved.
2. The manner of distributing the Class Notice to the Class is approved.
3. Promptly following the entry of this Order, the Settlement Administrator will prepare a final version of the Class Notice, incorporating into it the relevant dates and deadlines set forth in this Order. The Class Notice will be initially prepared in English and then, once finalized, translated into Spanish.
4. Except as otherwise specified herein, the Court for purposes of this Order adopts all defined terms set forth in the Settlement.

### **V. PROCEDURES FOR FINAL APPROVAL OF THE SETTLEMENT**

#### **A. Final Approval Hearing**

The Court hereby schedules a hearing to determine whether to grant final approval of the Settlement (the “Final Approval Hearing”) for May 11, 2017, at 1:30 p.m. in Courtroom 8 of this Court, located at 280 South 1<sup>st</sup> Street, San Jose, California.

#### **B. Deadline to Elect Not to Participate in the Settlement**

##### **1. Form of Election**

Class Members may exclude themselves from participating in the Settlement. To do so, the

Class Member must submit a completed Opt-Out Form that is (1) signed and dated; (2) returned by mail to the Settlement Administrator at the specified address; and (3) postmarked on or before the deadline. The date of the postmark on the return mailing envelope shall be the exclusive means used to determine whether an Opt-Out Form has been timely submitted.

**2. Deadline for Submitting Opt-Out Form**

Class Members will have forty-five (45) calendar days after the date on which the Settlement Administrator mails the Class Notice to submit to the Settlement Administrator a valid Opt-Out Form not to participate in the Settlement. A valid Opt-Out Form will be deemed timely submitted to the Settlement Administrator if it is mailed to the Settlement Administrator by first-class mail and postmarked by not later than forty-five (45) calendar days after the Settlement Administrator first mails the Class Notice to the Class Members. Only those Class Members who submit a completed Opt-Out Form within the time and by the manner set forth in this Order will be excluded from the Settlement. The Settlement will have no binding effect on any Class Member who properly elects not to participate in the Settlement in the manner required by this Order.

**C. Defendants Right to Rescind the Settlement Agreement**

In the event that 10% or more of the Class Members elect to opt out of the Settlement, Defendants may, at their election, rescind the Settlement and all actions taken in its furtherance of it will be thereby null and void. Defendants' must exercise this right of rescission, in writing, within seven (7) calendar days after the Settlement Administrator first notifies the Parties that the conditions expressed in this paragraph have been satisfied.

**D. Deadline for Filing Objections to Settlement**

Any Class Member who wishes to object to the fairness, reasonableness, or adequacy of the Settlement must do so in writing, postmarked no later than forty-five (45) calendar days after the date that the Class Notice is first mailed to Class Members by the Settlement Administrator. Objections must be mailed to the Settlement Administrator, who will provide notice of such objection to the parties. Class Counsel and Defendants' counsel will then provide notice of the

objection to the Court. Any Class Member who does not timely mail such a written objection will not be permitted to raise such objection, except for good cause shown, and any Class Member who fails to object in the manner prescribed by this Order will be deemed to have waived, and will be foreclosed from raising, any such objection. Class Members who have timely objected to the Settlement in writing may also appear at the Final Approval Hearing.

**E. Deadline for Motion for Class Counsels Attorneys' Fees and Costs Award**

Not later than fourteen (14) calendar days before the deadline for objection or exclusion, Plaintiffs will file a motion for approval of their Class Counsels attorneys' fees and costs. The motion for Class Counsels attorneys' fees and costs shall be heard concurrently with the motion for final approval on May 11, 2017.

**VI. RELEASE OF CLAIMS**

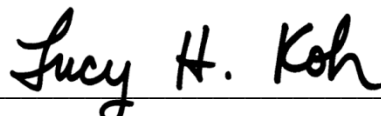
If, at the Final Approval Hearing, this Court grants final approval to the Settlement, Plaintiffs and every Class Member who does not validly and timely request not to participate in the Settlement will, pursuant to the Settlement, be adjudicated to have granted the release of claims as set forth in the Settlement.

**VII. APPOINTMENT OF SETTLEMENT ADMINISTRATOR**

CPT Group, Inc. is hereby appointed Settlement Administrator to carry out the duties set forth in this Order and the Settlement.

**IT IS SO ORDERED.**

Dated: January 24, 2017



LUCY H. KOH  
United States District Judge